

**NON - DISCLOSURE AGREEMENT ("Agreement")**

**AN AGREEMENT** dated the \_\_\_\_\_ day of \_\_\_\_\_ 2021

**BETWEEN: TERAS TEKNOLOGI SDN BHD (316616-X)** a company incorporated under the laws of Malaysia and having its registered office at Annex 3, Persada PLUS, Persimpangan Bertingkat Subang, KM15, Lebuhraya Baru Lembah Klang, 47301 Petaling Jaya, Selangor Darul Ehsan, Malaysia (hereinafter referred to as "**Teras**").

**AND:** \_\_\_\_\_ (**Contractor Name**)  
**(Company No.:** \_\_\_\_\_) a company incorporated under the laws of Malaysia and having its registered office at  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**(address)**(hereinafter referred to as "**the Company**").

(Teras Teknologi Sdn. Bhd. and the Company hereinafter collectively referred to as "**the Parties**" and each a "**Party**").

**RECITALS**

- A. TERAS will be disclosing to \_\_\_\_\_ (**Company Name**) certain commercially valuable, proprietary and confidential information in relation to [*PRE-QUALIFICATION EXERCISE FOR ADDITIONAL PANEL CONTRACTOR FOR TOLL COLLECTION SYSTEM (TCS), CARD ACCESS SYSTEM AND PARKING TERMINAL USING SCHEDULE OF RATE ("SOR")*] ("**Transaction**").
- B. As a condition to certain information being disclosed to the Receiving Party in connection with the proposed Transaction, the Parties undertakes and agrees to be bound by the terms of this Agreement.

**AGREEMENT**

**1. Definition**

- 1.1 In this Agreement, unless the context otherwise requires: -
  - (a) "**Affiliate/s**" means related companies of the Disclosing Party as defined in the Companies Act 2016;
  - (b) "**Confidential Information**" means this Agreement, the Transaction, any data or information relating to the business affairs

of the Disclosing Party and its Affiliates, and/or the Transaction, including but not limited to, data, reports, interpretations and records, containing or otherwise reflecting information relating to the Group, their business and shareholders, customers, of a commercial, technical, operational, administrative, marketing business, sales, software, intellectual property, concepts, financial or otherwise) which information may be orally transmitted or contained or reflected in electronic or documentary form in any, but not limited to, valuations, opinions, analyses, compilations, studies or any other documents, including loose notes, memoranda drawings, photographs and/or computer printouts, information of operations, administrative, economic, marketing or finance, planning, data processes, know-how research, technical data, technology, trade, commercial and marketing secrets, reports and intellectual property relating to the Group and whether prepared by the Disclosing Party or others. For the avoidance of doubt, Personal Data is Confidential Information for the purposes of this Agreement;

- (c) **"Disclosing Party"** means the Party disclosing the Confidential Information;
- (d) **"Group"** means in respect of a Party, that Party and its Affiliates;
- (e) **"Personal Data"** means the personal data as defined under the Personal Data Protection Act 2010;
- (f) **"Receiving Party"** means the Party receiving the Confidential Information";
- (g) **"Representative/s"**, in relation to a Party, means any of the Party's directors, officers, employees, agents or advisers (including but not limited to attorneys, accountants, consultants, bankers, financial advisers and any representative of such advisers); and
- (h) **"Term"** means the term of this Agreement as described in clause 10.

## **2. Confidentiality**

- 2.1 In consideration of the Disclosing Party disclosing the Confidential Information to the Receiving Party, the Receiving Party undertakes and agrees to be bound by the terms of this Agreement and to keep and withhold the Confidential Information, as private and confidential.
- 2.2 Subject to clause 2.4 and clause 3, a Party may not, without the prior written consent of the other Party, disclose or divulge the Confidential Information to any other person.

- 2.3 A Party may only use the Confidential Information for the discussion and evaluation of the Transaction referred to in Recital A only. Particularly, the Parties hereby acknowledge and agree that:-
- (a) the Confidential Information provided pursuant to this Agreement is valuable, secret and confidential to the Disclosing Party;
  - (b) to comply with the privacy laws including but not limited to the Malaysian Personal Data Protection Act 2010 relating to any Personal Data disclosed by one Party to the other Party. The Receiving Party agrees to comply with all reasonable requests in relation to any Personal Data disclosed by the Disclosing Party, to enable the Disclosing Party to comply with its obligations under those acts; and
  - (c) it shall not in any manner, contact, solicit, or accept any business in any manner from sources, which sources were made available through this Agreement, without the express permission of the Disclosing Party who made available the source.
- 2.4 Subject to clause 2.3, a Party may disclose the Confidential Information to its Representatives on a need to know basis solely for the purpose of evaluating the Transaction, provided that all such Representatives are made aware of the terms of this Agreement and agree to be bound by its terms. Notwithstanding the aforesaid, the Receiving Party shall at all times be responsibly and liable as principal for its Representatives.

### **3. Exclusions**

- 3.1 The confidentiality obligations contained in Clauses 2.2 and 2.3 do not apply to data or information which:-
- (a) generally available to the public otherwise than as a result of a breach of this Agreement; or
  - (b) already lawfully known to the Receiving Party, before the disclosure by the Disclosing Party other than as a result of breach of this Agreement; or
  - (c) developed by a Party and/or its Representatives, independent of the Confidential Information; or
  - (d) disclosed by the Disclosing Party to the Receiving Party on a non-confidential basis and which was expressly identified as such *vice versa*; or
  - (e) required to be disclosed by law, by order of a court of competent jurisdiction or by a governmental or regulatory authority and is disclosed in accordance with Clause 4.1 below; or

- (f) disclosed to the Receiving Party by a third party not known to the Receiving Party, following reasonable inquiry, to be subject to an obligation of non-disclosure with respect to such information.

#### **4. Compulsory Disclosure**

4.1 In the event that the Receiving Party is required by law, by order of a court of competent jurisdiction or by a governmental or regulatory authority to disclose all or any part of the Confidential Information, it shall, where reasonably possible, notify the Disclosing Party in writing of such requirement prior to such disclosure. The Receiving Party shall:-

- (a) take reasonable steps as to permit the Disclosing Party to have an opportunity to oppose or restrict the disclosure;
- (b) in the absence of a protective order, and to the extent legally permitted, cooperate with the Disclosing Party, at the Disclosing Party's expense, in any attempt that it may make to obtain an order or other reliable assurance that confidential treatment will be accorded to such Confidential Information; and
- (c) where the Receiving Party is unable to or restricted from providing prior notice due to any restriction or prohibition imposed by any court, direction or regulation or any government authority or other relevant authority, the Receiving Party shall inform the Disclosing Party immediately thereafter it is permitted to do so pursuant to such restriction or prohibition.

#### **5. Obligations**

5.1 The Parties and the Representatives shall, with respect to the Confidential Information:-

- (a) use the same commercially reasonable efforts to maintain the confidentiality of such Confidential Information as it uses to protect its own Confidential Information.
- (b) use such Confidential Information solely for the Transaction as described herein.
- (c) not copy such Confidential Information, in whole or in part, except as required in furtherance of the use identified in Clause 5.1(b).
- (d) upon termination or expiry of this Agreement, destroy or return to the Disclosing Party such Confidential Information as is received or

recorded in written or other tangible media, including all copies and records thereof.

- (e) notify the Disclosing Party in writing immediately upon the occurrence of any unauthorized release of the Confidential Information or any other breach of this Agreement.

## **6. Injunctive relief**

The Parties acknowledge that without in any way compromising each Party's right to seek damages or any other form of relief in the event of a breach of this Agreement, a Party may seek to obtain an injunction to prohibit or restrain the other from any breach or threatened breach of this Agreement.

## **7. Indemnity**

The defaulted Party agrees to indemnify and hold harmless the other Party from against all actions, claims, damage, loss, costs and expenses (including reasonable solicitors' costs) which arises solely because of the defaulted Party's breach of this Agreement.

## **8. Warranty**

No warranties of any kind are given with respect to the Confidential Information disclosed under this Agreement or any use thereof, except as may be otherwise agreed to in writing.

## **9. Ownership of Confidential Information**

Each of the Parties acknowledges that the Confidential Information shall remain the property and trade secret of the Disclosing Party. Nothing herein shall grant, explicitly or implicitly, any ownership right in the Confidential Information.

## **10. Term and Termination**

This Agreement shall be effective from the date of signing by both Parties and shall terminate and be of no further force or effect on the first anniversary of the date hereof ("**Term**"), except that the obligations of the Parties and Representatives with regard the Confidential Information disclosed prior to termination shall continue for a period of 6 month after such disclosure unless otherwise mutually agreed.

**11. Costs and Expenses**

Each Party is to bear its own costs and expenses incurred in performing its obligations under this Agreement. However, stamp duty payable in connection with this Agreement shall be borne by the Company.

**12. No Partnership or Agency**

None of the provisions of this Agreement is to be considered to constitute a partnership or agency between the Parties and neither Party is to have any authority to bind the other Party in any way to any third party.

**13. Variations to Agreement**

This Agreement may only be varied, modified or altered with the prior written agreement of the Parties.

**14. Successors-in-title and Representatives**

This Agreement is binding upon and ensure to the benefit of the respective successors in title and representatives of the Parties to this Agreement.

**15. Governing Law**

This Agreement is governed by and interpreted in accordance with the laws of Malaysia and each of the Parties submits to the non-exclusive jurisdiction of the courts of Malaysia.

**16. Notices**

16.1 Each communication to be made hereunder shall be made in writing.

16.2 Any notice or communication under this Agreement shall be delivered personally, sent by prepaid registered post or by facsimile transmission to the addresses and facsimile numbers specified below or to such other address or facsimile number as the recipient may have notified the other party hereto in writing. Proof of posting or despatch of any notice or communication shall be deemed to be proof of receipt:-

(a) if it is personally delivered, at the time of delivery and duly acknowledged;

- (b) in the case of a letter sent by prepaid registered post, on the 2<sup>nd</sup> Business Day after posting; and
- (c) in the case of a facsimile, on the Business Day immediately after transmission provided that the sender has received a successful fax transmission report.

For the purpose of this Clause 16.2, the term "**Business Day**" shall mean a day (other than a Saturday, Sunday and a public holiday) in which the Parties are open for business in Kuala Lumpur.

<b>Company Name:</b>	<b>Teras Teknologi Sdn Bhd</b>
<b>Attn:</b> <b>Designation:</b> <b>Postal Address:</b>	<b>Attn:</b> Ungku Zaki Ungku Hamzah <b>Designation:</b> Acting, Chief Executive Officer <b>Postal Address:</b> Menara Korporat, Persada PLUS, Persimpangan Bertingkat Subang, KM15, Lebuhraya Baru Lembah Klang, 47301 Petaling Jaya, Selangor Darul Ehsan.
Tel:	Tel: 03 – 7666 4666

**17. Invalid Provisions**

If any provision of this Agreement is held to be illegal, invalid or unenforceable for any reason, whether in whole or in part, such provision shall be fully severable, and this Agreement shall be construed and enforced (to the extent permitted by applicable law) as if such illegal, invalid or unenforceable provision had never been a part of this Agreement.

**18. Entire Agreement**

This Agreement supersedes all previous oral and written agreements, if any, between the Parties regarding Confidential Information disclosed to each other for the purposes described herein.

**19. Counterparts**

This Agreement may be executed in one or more counterparts, all of which taken together, shall constitute the Agreement.

**20. Authority to Execute Agreement**

All signatories hereto acknowledge that they have read the terms and conditions of this Agreement and by their signature that they have full and complete authority to execute this Agreement for and in the name of the Party for which they have given their signature.

**21. Acting as Principal**

The Parties respective warrants to each other that it is acting as principal in this matter, and not as agent or broker for any person, company or firm (save and except for their own respective Group companies).

**22. Exclusivity**

The Parties acknowledge and agree that the Transaction set forth under this Agreement is not exclusive and that, each Party shall be free at any time during the Term and thereafter to directly or indirectly solicit, initiate discussions or enter into any negotiations or sign any definitive agreements with any third party concerning any possible collaboration of similar nature.

**23. Assignment**

This Agreement may not be assigned by either Party, and neither Party shall delegate its duties hereunder, without the prior written consent of the other Party. All of the terms and provisions contained in this Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, successors and permitted assigns.

*[The rest of this page is purposely left blank]*



**IN WITNESS WHEREOF** the parties have caused this Agreement to be executed on the date and year first above written.

SIGNED for and on behalf of )  
**Teras Teknologi Sdn. Bhd.** )  
**Company No.: 316616-X** )

.....  
Name:  
Designation:

in the presence of:

.....  
Name:  
Designation:

SIGNED BY for and on behalf of )  
Company Name: )  
Company No.: )

.....  
Name:  
Designation:

in the presence of:

.....  
Name:  
Designation: